

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:15-cr-0047-KJD-NJK

Plaintiff,

ORDER

v.

JOANN ARGYRIS,

Defendant.

On April 22, 2020, the Court entered an order denying defendant Joann Argyris's motion to set aside judgment or alternatively, to quash writs of garnishment (ECF No. 127). Though the order did not change the effect of Argyris's judgment, it allowed the government to proceed with its collection efforts on her outstanding \$1.3 million restitution order. Argyris appealed the Court's order on May 19, 2020, nearly two weeks after the deadline to appeal expired. See Fed. R. App. P. 4(b)(1)(A) (allowing fourteen days to appeal a final order in a criminal case). On May 20, 2020, the Ninth Circuit remanded the case to this Court "for the limited purpose of permitting the district court to provide appellant notice and an opportunity to request that the time for filing the notice of appeal be extended, for a period not to exceed 30 days from the expiration of the time prescribed by Rule 4(b)." Order of App. Comm'r, attached as Exhibit A.

The Court hereby notifies defendant, Joann Argyris, that her notice of appeal was untimely and will be dismissed unless she can show excusable neglect or good cause for her delay. Argyris may move to extend the time to file her notice of appeal within 7 days of the entry of this order. Her motion should detail the reasons her notice of appeal was untimely and whether good cause or excusable neglect exists to warrant an extension of time to appeal. The Court will then review the motion and determine whether to extend the deadline for her appeal. See Fed. R. App. P. 4(b)(4) (permitting the Court to extend the deadline to file a notice of appeal

1 “30 days from the expiration of the time otherwise prescribed by this Rule” upon a finding of
2 good cause or excusable neglect).

3 It is therefore ORDERED that defendant Joann Argyris shall file a motion to extend the
4 deadline to file her notice of appeal within 7 days of entry of this order. Argyris’s motion should
5 explain the reasons for her delay in filing her original notice of appeal and why her neglect is
6 excusable.

7 It is further ORDERED that the clerk of the court shall serve this order on Argyris’s
8 counsel, Harold P. Gewerter, Esq., at 1212 S. Casino Center Boulevard, Las Vegas, NV 89104.
9 Dated this 21st day of May, 2020.

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12 Kent J. Dawson
13 United States District Judge
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EXHIBIT A

May 20, 2020 Order of Appellate Commissioner

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FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAY 20 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOANN ARGYRIS,

Defendant-Appellant.

No. 20-10163

D.C. No.

2:15-cr-00047-KJD

District of Nevada,

Las Vegas

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

On May 19, 2020, appellant filed, pursuant to Federal Rule of Appellate Procedure 4(b)(1)(A), a notice of appeal from the district court's order denying the motion to vacate judgment or in the alternative, to quash writ of garnishment, entered on April 23, 2020. Because the notice of appeal was filed more than 14 days after entry of the order, it was not timely under Federal Rule of Appellate Procedure 4(b)(1)(A). The notice of appeal was, however, filed within 30 days after the expiration of the time to file the notice of appeal. *See* Fed. R. App. P. 4(b)(4).

Accordingly, this case is remanded to the district court for the limited purpose of permitting the district court to provide appellant notice and an opportunity to request that the time for filing the notice of appeal be extended, for

a period not to exceed 30 days from the expiration of the time prescribed by Rule 4(b), upon a finding of excusable neglect or good cause. *See* Fed. R. App. P. 4(b)(4); *United States v. Ono*, 72 F.3d 101, 103 (9th Cir. 1995) (order); *United States v. Stolarz*, 547 F.2d 108 (9th Cir. 1976).

The district court is requested to make this determination at its earliest convenience and to send to this court a copy of its order setting forth the basis for its determination. The district court is also requested to serve its orders on appellant's counsel at the following address: Harold P. Gewerter, Esq., 1212 S. Casino Center Boulevard, Las Vegas, NV 89104.

The proceedings in this court are held in abeyance pending the district court's determination.

The Clerk shall serve this order on the district judge.